

Message Text

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S E C R E T STATE 140122

FOR THE CHARGE D'AFFAIRES

E.O. 11652: GDS

TAGS: PGOV, CS

SUBJECT: EXTRADITION

FOLLOWING MEMORANDUM RECEIVED FROM JUSTICE DEPARTMENT JUNE
16. EMBASSY COMMENTS REQUESTED. BEGIN TEXT.

ROBERT VESCO IS A DEFENDANT IN FIVE PENDING FEDERAL INDICT-
MENTS RETURNED IN THE SOUTHERN DISTRICT OF NEW YORK. THE
SIMPLEST AND BEST PROSECUTION CASE (COMMONLY REFERRED TO AS
THE MITCHELL-STANS CASE) INVOLVES AN ALLEGED ILLEGAL CON-
TRIBUTION OF \$200,000 TO THE NIXON CAMPAIGN IN 1972 BY
VESCO. THE CRIME CHARGED IN THAT CASE IS NOT WITHIN THE
UNITED STATES-COSTA RICA EXTRADITION TREATY.

ONLY TWO OF THE FIVE INDICTMENTS CHARGE CRIMES WHICH ARE
ARGUABLY EXTRADITABLE OFFENSES WITHIN THE TREATY TERMS.
ONE OF THE TWO CASES IS A MASSIVE FRAUD CASE INVOLVING

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NUMEROUS WITNESSES AND BECAUSE OF ITS SIZE AND DIFFICULTY,
IT CANNOT BE CONSIDERED AN APPROPRIATE VEHICLE FOR EXTRA-
DITION TRIAL. THE SECOND AND ONLY REMAINING CASE ARGUABLY
SUITABLE FOR EXTRADITION IS A WIRE FRAUD REFERRED TO AS
THE BUHL CASE. (HENRY BUHL WAS A DIRECTOR AND PAST
PRESIDENT OF THE MANAGEMENT FUND FOR I.O.S. AND A CLOSE
ASSOCIATE OF ROBERT VESCO.) IN ESSENCE, THE CASE CHARGES

THAT VESCO, THROUGH HIS CONTROL OF INTERNATIONAL CONTROLS CORPORATION (A PUBLICLY-OWNED CORPORATION), DEFRAUDED THAT COMPANY BY DIRECTING A \$50,000 PAYMENT BE MADE TO HENRY BUHL IN JANUARY OF 1972, WHICH WAS TRANSMITTED BY WIRE THROUGH NEW YORK CITY. THE PROSECUTION THEORY WOULD BE THAT ICC RECEIVED NOTHING OF VALUE FOR THAT PAYMENT.

THE BUHL CASE WAS THE SUBJECT OF AN ATTEMPT TO EXTRADITE VESCO FROM THE BAHAMAS IN NOVEMBER OF 1973 WHICH FAILED (UNITED STATES COSTS APPROXIMATELY \$150,000). ESSENTIALLY, THE BAHAMIAN COURT FOUND THAT "WIRE FRAUD" DID NOT COME WITHIN THE EXTRADITION TREATY'S CRIME OF "FRAUD" UNDER THE BAHAMIAN LAW.

EARLIER IN 1973, THE UNITED STATES ATTEMPTED TO EXTRADITE VESCO FROM COSTA RICA UNDER ANOTHER OF THE PENDING INDICTMENTS WHICH CHARGED VESCO WITH AN ATTEMPT TO DEFRAUD IN CONNECTION WITH A \$250,000 CONTRIBUTION TO CREEP. THE COSTA RICAN COURT FOUND THAT AN "ATTEMPT TO DEFRAUD" WAS NOT THE EXTRADITION TREATY'S CRIME OF "FRAUD" UNDER COSTA RICAN LAW.

ROBERT FISKE, UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF NEW YORK, HAS BEEN CLOSELY ADVISED BY AN EXCELLENT COSTA RICAN TRIAL ATTORNEY. AS A RESULT OF CONFERENCES WITH MR. FISKE, THE FOLLOWING BEST ESTIMATES ON EXTRADITION BASED ON THE BUHL CASE CAN BE MADE:

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1. PURELY ON THE LEGAL MERITS, WE HAVE APPROXIMATELY A 50-50 CHANCE OF CONVINCING THE COSTA RICAN COURT IN AN EXTRADITION TRIAL THAT FRAUD BY WIRE IS WITHIN THE TERM "FRAUD" OF THE EXTRADITION TREATY.

2. WE HAVE A SIMILAR CHANCE OF CONVINCING THE COSTA RICAN COURT THAT THE FACTS SHOW WIRE FRAUD.

3. WERE WE TO OBTAIN EXTRADITION, THE CHANCES OF SUCCESS IN THE UNITED STATES PROSECUTION OF THE BUHL CASE ARE SIGNIFICANTLY BETTER THAN 50-50.

4. GRAND JURY TRANSCRIPTS WILL BE USED TO PROVE THE UNITED STATES EXTRADITION CASE IN COSTA RICA. MR. VESCO HAS THE RIGHT TO CALL WITNESSES ON HIS OWN BEHALF IN OPPOSITION TO EXTRADITION. THE ESTIMATE OF THE TRIAL TIME IS UNCERTAIN BUT COULD BE AS MUCH AS EIGHT WEEKS. COSTA RICAN COUNSEL ADVISES US THAT WITH TRIAL PROCEEDINGS AND APPEALS, RESOLUTION OF THE MATTER IS LIKELY TO TAKE

ONE YEAR. THE COST OF WITNESSES, UNITED STATES COUNSEL, COSTA RICAN COUNSEL AND LEGAL PROCEEDINGS WILL EXCEED \$250,000 AND MAY REACH \$400,000.

5. SINCE VESCO HAS AN OPPORTUNITY TO FULLY DEFEND THE EXTRADITION PROCEEDINGS AND PRESENT EVIDENCE, THERE IS SOME SUBSTANTIAL RISK OF HIS TURNING THE PROCEEDINGS INTO A CIRCUS DIRECTED TOWARD LITIGATING THE ISSUE OF UNITED STATES POLITICAL MOTIVATION AND PRESSURE AGAINST HIM. HE MAY LIKELY DEMAND FROM THE COURT THE APPEARANCE OF TOP UNITED STATES OFFICIALS AS WITNESSES.

VESCO'S BASIC FRAUDS INVOLVED I.O.S. TRANSACTIONS AND RELATED CORPORATE DEALINGS. MOST OF THE LOSSES SUFFERED IN THOSE TRANSACTIONS WERE BY EUROPEAN CITIZENS. THE ABOVE ANALYSIS ASSUMES A COMPLETELY FAIR AND OBJECTIVE
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EXTRADITION HEARING IN COSTA RICA.

THE DEPARTMENT OF JUSTICE WOULD MUCH PREFER, IN LIGHT OF THE COSTS AND RISKS, TO EARNESTLY REQUEST THAT THE COSTA RICAN GOVERNMENT EXPEL VESCO AND COORDINATE SUCH EXPULSION SO THAT HE MAY BE APPREHENDED BY THE UNITED STATES AS A FUGITIVE, RATHER THAN REQUEST EXTRADITION. IN THAT EVENT, WE WOULD BE FREE TO TRY HIM ON ANY ONE OR MORE OF THE FIVE INDICTMENTS (PARTICULARLY ON THE VERY SOUND AND SIMPLE MITCHELL-STANS CASE) INSTEAD OF BEING LIMITED UNDER EXTRADITION LAW TO THE ONE CASE ON WHICH HE WOULD BE EXTRADITED (THE BUHL CASE). FOR ALL THE REASONS STATED ABOVE, WE RECOMMEND AGAINST AN EXTRADITION REQUEST.

I CONCUR,

GRIFFIN B. BELL

JUNE 15, 1977. END TEXT. CHRISTOPHER

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